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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/521,164	01/19/2006	Jaouad Zemmouri	LOM-0044	9042

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EXAMINER	
CRANDALL, LYNSEY P	

ART UNIT	PAPER NUMBER
3769	

NOTIFICATION DATE	DELIVERY MODE
08/24/2009	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docketing@mwzb.com

Office Action Summary	Application No.	Applicant(s)	
	10/521,164	ZEMMOURI ET AL.	
	Examiner	Art Unit	
	LYNSEY CRANDALL	3769	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *27 April 2009*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,2,4-7 and 9-16* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1, 2, 4-7 and 9-16* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *14 January 2005* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's amendments, filed 4/27/2009, with respect to the 112 2nd paragraph indefinite rejection have been fully considered and are persuasive. The 112 2nd rejection of claims 4, 5, 9 and 10 has been withdrawn.

2. Applicant's arguments, filed 4/27/2009, with respect to the rejection(s) of claim(s) 1 and 2 under 102(b) as anticipated by Lin '082 have been fully considered and are persuasive. Specifically, Lin does not teach emitting light only in the range 1.26 μm and 1.27 μm as currently amended. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of a newly found prior art reference.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 6, 7, 9, 10 and 14-16 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The limitation of "light... which passes through the cornea and the crystalline lens of the eye" is considered to be new matter as it is not disclosed in the original specification or the original claims. Also,

there is no support in the specification for the limitation of "wavelengths lying **only** in the range 1.26 μm to 1.27 μm". The specification states multiple times that the wavelength is in the range of 1.2 μm to 1.3 μm and preferably 1.26 μm to 1.27 μm. This is not sufficient support for the limitation "only".

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1-2 and 11 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. 2002/0198517 to Alfano et al.

7. Alfano teaches an apparatus in which a laser light source emits light at 1270 nm with a power of 220 mW (Par 0077). The recitation "for treating age related macular degeneration" is considered intended use. Also, the limitation of "thereby generating intracellular singlet oxygen directly and in sufficient quantity to occlude normal retinal vessels" is considered a result of the claimed wavelength and power. The thermal properties of a laser are based on the wavelength, the power and the type of material being treated. Since, the type of material being treated is intended use and Alfano teaches the claimed power and wavelength, it is inherent that this laser produces a non-thermal effect when treating the eye. The limitations based on intended use or results

have no impact on the device structure; Alfano teaches all the claimed structural components to meet these claims.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

9. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

10. Claims 4, 5, 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. 2002/0198517 to Alfano et al. as applied to claims 1 and 11 above, and further in view of U.S. 6,200,309 to Rice et al.

11. Alfano is discussed above, including multiple lasers that emit in the infrared spectrum, but does not specify an optical fiber Raman laser. Rice et al. teaches the use of an optical fiber Raman laser (Fig 9, # 310) for photodynamic therapy with lasers in a variety of emission wavelengths, including the min-infrared region (Col. 12, lines 15-18).

Rice et al. further teaches the optical fiber Raman laser comprising a pump laser diode (Fig. 9, # 320), an ytterbium-doped optical fiber laser (Col. 12, lines 16-19), and a Raman converter (Fig. 9, # 400) serving to transpose the wavelength of the beam coming from the ytterbium-doped optical fiber laser. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the ytterbium-doped optical fiber laser as taught by Rice et al. in the invention of Alfano as it is capable of providing the specific parameters suggested by Alfano.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LYNSEY CRANDALL whose telephone number is (571)270-7035. The examiner can normally be reached on Monday to Thursday 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hank Johnson can be reached on (571)272-4768. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/LYNSEY CRANDALL/
Examiner, Art Unit 3769

/Henry M. Johnson, III/
Supervisory Patent Examiner, Art Unit 3769

8/17/2009